

SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT

ACTION REPORT:

TO: Chairman and Board Members

DATE: 6/4/13

FROM: Division of Finance and Accounting

SUBJECT: ADOPT Resolution No. 20 and Resolution No. 21 Approving FY 12/13 Budget for District and ADOPT Resolution No. 22 Approving Issuance and Post Issuance Bond Compliance Procedures

AGENDA ITEM NO.: 01

STAFF: Lee Guillory (x27084)

ACTION

- ADOPT Resolution No. 20, approving the preliminary District budget for Fiscal Year 13/14,
- ADOPT Resolution No. 21, approving the District budget for FY 13/14 and orders a tax levy, and
- ADOPT Resolution No. 22, approving Issuance and Post Issuance Bond Compliance Procedures

BACKGROUND

The Scottsdale Waterfront Commercial Community Facilities District (CFD) was formed in 2005 to facilitate the financing, acquiring and constructing of public infrastructure within the District. To date, \$3,805,000 of tax-exempt bonds have been issued.

The District was responsible for the installation of infrastructure, which benefits existing and future residents of the District and the City. An ongoing tax assessment is necessary to pay the debt service on the District's bonds and the District's operation and maintenance expenses.

The Fiscal Year 13/14 preliminary budget (see Exhibit A of Attachment #1) has been prepared pursuant to the requirements of the Arizona Revised Statutes. The initial Resolution calls for a public hearing on the preliminary budget and the second Resolution adopts the final budget subsequent to the hearing (see Exhibit B of Attachment #2). The second Resolution also sets the tax levy for the District.

Compliance Procedures

Federal tax law encourages tax-exempt bond issuers to develop written issuance and post-issuance compliance procedures related to tax-exempt bonds.

Developing proper procedures will ensure the preservation of the tax-exempt status of the CFD's bonds throughout the life of the bonds. Failure to comply with these procedures may cause the CFD to be (a) liable to the bondholders, (b) subject to enforcement action by the Internal Revenue Service, (c) subject to a loss of all or part of the direct federal subsidy, and (d) subject to enforcement action by the Securities Exchange Commission. Therefore, it is important that the CFD take the necessary action to ensure compliance with the conditions, restrictions and requirements applicable to each bond or other financing.

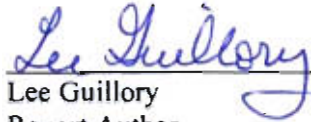
The attached procedures (Exhibit A of Attachment #3) establish a formal frame-work for the CFD's overall debt planning and management and address five key areas:

- Investment of bond proceeds until expended
- Use of bond proceeds
- Use of bond financed facilities
- Arbitrage rebate; and
- Record retention

ACTION TAKEN: _____

FISCAL IMPACT

The District will levy an ad valorem tax on District property owners of \$292,938 resulting in an estimated tax rate for existing and future property owners of \$5.0350 per \$100.00 of secondary assessed valuation for debt service and \$0.00 for operation and maintenance expenses, an increase of \$879 in the levy and an increase of \$0.8777 in tax rate (due primarily to declining assessed valuations). This tax has been fully disclosed to all current property owners in the District and will be disclosed to all future property owners.



Lee Guillory
Report Author



Derek Earle
District Manager

- Attachments:
1. Resolution No. 20
 - Exhibit A - Preliminary Budget
 - Exhibit B - Notice of Hearing
 2. Resolution No. 21
 - Exhibit A - Notice of Hearing
 - Exhibit B - Final Budget
 - Exhibit C - Tax Levy
 - Map of District
 3. Resolution No. 22
 - Exhibit A – Issuance and PIBC Procedures

**MINUTES
DISTRICT BOARD
SCOTTSDALE WATERFRONT COMMERCIAL
COMMUNITY FACILITIES DISTRICT
TUESDAY, JUNE 5, 2012**

1. CALL TO ORDER

Chairman W.J. "Jim" Lane called to order a meeting of the District Board for the Scottsdale Waterfront Commercial Community Facilities District at 7:39 P.M. on Tuesday, June 5, 2012 in the City Hall Kiva.

Present: W.J. "Jim" Lane, Chairman
Board members Lisa M. Borowsky, Suzanne Klapp, Bob Littlefield,
Ron McCullagh, Linda Milhaven and Dennis E. Robbins

Also Present: City Manager David Richert
City Attorney Bruce Washburn
David N. Smith, Community Facilities District Treasurer
City Auditor Sharron Walker
City Clerk Carolyn Jagger

2. APPROVAL OF MINUTES OF TUESDAY, JUNE 7, 2011

Board member Littlefield moved to approve the minutes of Tuesday, June 7, 2011. Board member Robbins seconded the motion, which carried 7/0.

3. ADOPT RESOLUTION NO. 18, WHICH SETS OUT PRELIMINARY BUDGET AND CALLS FOR PUBLIC HEARING

Board member McCullagh moved to adopt Resolution No. 18, which sets out preliminary budget and calls for a public hearing. Board member Littlefield seconded the motion, which carried 7/0.

4. CALL FOR PUBLIC COMMENTS ON THE BUDGET

No public comments were received.


5. ADOPT RESOLUTION NO. 19, WHICH APPROVES THE BUDGET AND SETS TAX LEVY

Board member McCullagh moved to adopt Resolution No. 19, which approves the budget and sets tax levy. Board member Robbins seconded the motion, which carried 7/0.

6. ADJOURNMENT

With no further business to discuss, Chairman Lane adjourned the meeting at 7:40 P.M.

SUBMITTED BY:


Carolyn Jagger
City Clerk

Officially approved by the District Board on _____

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the District Board of the Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona held on the 5th day of June 2012.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 4th day of June 2013.

Carolyn Jagger, City Clerk

**SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT
OF SCOTTSDALE, ARIZONA**

RESOLUTION No. 20

A RESOLUTION OF THE DISTRICT BOARD OF SCOTTSDALE
WATERFRONT COMMERCIAL COMMUNITY FACILITIES
DISTRICT OF SCOTTSDALE, ARIZONA APPROVING A
PROPOSED DISTRICT BUDGET FOR FISCAL YEAR 2013-2014
AND ORDERING A HEARING ON SUCH BUDGET AS
APPROVED

WHEREAS, pursuant to Section 48-716 of the Arizona Revised Statutes, the District Treasurer of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona (the "District") prepared and submitted to the Board of Directors of the District (the "District Board") for approval a proposed District budget for Fiscal Year 2013-2014 (the "Proposed Budget"); and

WHEREAS, the Proposed Budget sets forth the annual statements and estimates of the operation and maintenance expenses together with the debt service payment of the District for Fiscal Year 2013-2014, as required by Section 48-723C of the Arizona Revised Statutes; and

WHEREAS, pursuant to Section 48-723C of the Arizona Revised Statutes, the District Board filed the Proposed Budget with the City Clerk of the City of Scottsdale, Arizona, and the District Clerk on or before May 21, 2013,

NOW, THEREFORE, BE IT RESOLVED by the District Board of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona as follows:

1. *Approval of Proposed Budget.* The Proposed Budget submitted to the District Board and attached as Exhibit A hereto is hereby approved and a hearing on the Proposed Budget is hereby ordered as required by law.
2. *Notice of Hearing on Proposed Budget.* Notice of the public hearing on the Proposed Budget in the form attached hereto as Exhibit B was published in accordance with the provisions of Section 48-716 of the Arizona Revised Statutes.
3. *Effective Date.* This resolution shall be effective immediately.

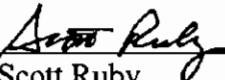
PASSED by the District Board of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona this 4th day of June, 2013.

Chairman, District Board
Scottsdale Waterfront Commercial
Community Facilities District of
Scottsdale, Arizona

ATTEST:

Carolyn Jagger, District Clerk
Scottsdale Waterfront Commercial Community
Facilities District of Scottsdale, Arizona

APPROVED AS TO FORM:

By 
Scott Ruby

ATTACHMENTS:

Exhibit A — Proposed Budget for Fiscal Year 2013-2014
Exhibit B — Notice of Hearing on Proposed Budget for Fiscal Year 2013-2014

EXHIBIT A

SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA

FISCAL YEAR 2013-2014 PRELIMINARY BUDGET

BEGINNING FUNDS AVAILABLE FOR DEBT SERVICE	\$	41,225
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REVENUES

Net Secondary Assessed Value (as of February 2013) *	5,818,043	
Tax Rate for Debt Service	\$5.0350	
Property Tax Collections (NAV x rate / 100)		292,938
Interest Income		50

EXPENSES

Debt Service		<u>(308,506)</u>
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ENDING FUNDS AVAILABLE FOR DEBT SERVICE	\$	<u>25,707</u>
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BEGINNING FUNDS AVAILABLE FOR O&M	\$	30,971
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REVENUES

Net Secondary Assessed Value (as of February 2013) *	5,818,043	
O&M Tax Rate	\$0.00	
Property Tax Collections (NAV x rate / 100)		0
Interest Income		5

EXPENSES

Liability Insurance Premium	(5,000)	
Trustee Fees	(3,200)	
Legal Fees	(300)	
Advertising	(200)	
City of Scottsdale Administration	(4,300)	
		<u>(13,000)</u>

ENDING FUNDS AVAILABLE FOR O&M	\$	<u>17,976</u>
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* Source: Maricopa County Assessor's Office

EXHIBIT B

**SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES
DISTRICT OF SCOTTSDALE, ARIZONA**

**NOTICE OF HEARING
REQUIRED BY A.R.S. § 48-723C
ON THE PROPOSED BUDGET OR FISCAL YEAR 2013-2014
OF
SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES
DISTRICT OF SCOTTSDALE, ARIZONA**

Pursuant to Sections 48-716 and 48-723.C of the Arizona Revised Statutes, notice is hereby given that a public hearing on the Proposed Budget for Fiscal Year 2013-2014 of the Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona shall be held by the District Board on June 4, 2013, at approximately 5:00 p.m. or immediately following the regular meeting of the Scottsdale City Council in the City of Scottsdale City Hall Kiva located at 3939 Drinkwater Blvd., Scottsdale, Arizona. A copy of the proposed budget is on file with the Clerk of the City of Scottsdale, Arizona/District Clerk of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona, at the City Hall of the City of Scottsdale, Arizona, 3939 Drinkwater Blvd., Scottsdale, Arizona 85251, telephone number (480) 312-2412. This notice also constitutes notice of the filing of the estimate as required by Section 48-723C of the Arizona Revised Statutes.

DATED this 21st day of May, 2013.

/s/ District Manager
District Manager
Scottsdale Waterfront Commercial Community
Facilities District of Scottsdale, Arizona

SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT
OF SCOTTSDALE, ARIZONA

RESOLUTION No. 21

A RESOLUTION OF THE DISTRICT BOARD OF SCOTTSDALE
WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT OF
SCOTTSDALE, ARIZONA ADOPTING THE DISTRICT BUDGET FOR
FISCAL YEAR 2013-2014 AND LEVYING A TAX

WHEREAS, pursuant to Section 48-716 of the Arizona Revised Statutes, the District Treasurer of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona (the "District") prepared and submitted to the Board of Directors of the District (the "District Board") for approval a proposed District budget for Fiscal Year 2013-2014 (the "Proposed Budget"); and

WHEREAS, the Proposed Budget sets forth the annual statements and estimates of the operation and maintenance expenses, together with the debt service payments of the District for Fiscal Year 2013-2014, as required by Section 48-723C of the Arizona Revised Statutes; and

WHEREAS, on June 4, 2013, the District Board adopted Resolution No. 20, approving the Proposed Budget and ordering a hearing on the Proposed Budget as required by law; and

WHEREAS, as required by Section 48-716 of the Arizona Revised Statutes, notice of the public hearing on the Proposed Budget, in the form attached hereto as Exhibit A, was published not less than ten days prior to the date hereof in a newspaper of general circulation in the District and was mailed to the City Clerk of the City of Scottsdale, Arizona; and

WHEREAS, a public hearing was held on the date hereof,

NOW, THEREFORE, BE IT RESOLVED by the District Board of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona as follows:

1. *Ratification of Notice of Hearing on Proposed Budget.* Notice of the public hearing on the Proposed Budget provided by the District Manager in the form attached hereto as Exhibit A is hereby ratified and approved in all respects.
2. *Adoption of Proposed Budget.* The Proposed Budget in the form attached hereto as Exhibit B is hereby approved and adopted as the District budget for Fiscal Year 2013-2014.
3. *Tax Levy.* A tax levy (the "Tax Levy") in the form attached hereto as Exhibit C is hereby ordered, approved and adopted and the District Clerk is hereby directed to deliver certified copies of the Tax Levy to the Maricopa County (Arizona) Board of Supervisors, to the Arizona Department of Revenue and to any entity acting as trustee for any District bonds.

4. *Effective Date.* This Resolution shall be effective immediately

PASSED by the District Board of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona this 4th day of June, 2013.

Chairman, District Board
Scottsdale Waterfront Commercial
Community Facilities District of
Scottsdale, Arizona

ATTEST:

Carolyn Jagger, District Clerk
Scottsdale Waterfront Commercial Community
Facilities District of Scottsdale, Arizona

APPROVED AS TO FORM:

By  _____
Scott Ruby

ATTACHMENTS:

Exhibit A — Form of Notice of Hearing on Proposed Budget
Exhibit B — Final Budget for Fiscal Year 2013-2014
Exhibit C — Form of Tax Levy

EXHIBIT A

**SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES
DISTRICT OF SCOTTSDALE, ARIZONA**

**NOTICE OF HEARING
REQUIRED BY A.R.S. § 48-723C
ON THE PROPOSED BUDGET OR FISCAL YEAR 2013-2014
OF
SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES
DISTRICT OF SCOTTSDALE, ARIZONA**

Pursuant to Sections 48-716 and 48-723.C of the Arizona Revised Statutes, notice is hereby given that a public hearing on the Proposed Budget for Fiscal Year 2013-2014 of the Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona shall be held by the District Board on June 4, 2013, at approximately 5:00 p.m. in the City of Scottsdale City Hall Kiva located at 3939 Drinkwater Blvd., Scottsdale, Arizona. A copy of the proposed budget is on file with the Clerk of the City of Scottsdale, Arizona/District Clerk of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona, at the City Hall of the City of Scottsdale, Arizona, 3939 Drinkwater Blvd., Scottsdale, Arizona 85251, telephone number (480) 312-2412. This notice also constitutes notice of the filing of the estimate as required by Section 48-723C of the Arizona Revised Statutes.

DATED this 21st day of May, 2013.

/s/ District Manager
District Manager
Scottsdale Waterfront Commercial Community Facilities
District of Scottsdale, Arizona

EXHIBIT B

SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA

FISCAL YEAR 2013-2014 BUDGET

BEGINNING FUNDS AVAILABLE FOR DEBT SERVICE \$ 41,225

REVENUES

Net Secondary Assessed Value (as of February 2013) *	5,818,043	
Tax Rate for Debt Service	\$5.0350	
Property Tax Collections (NAV x rate / 100)		292,938
Interest Income		50

EXPENSES

Debt Service		<u>(308,506)</u>
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ENDING FUNDS AVAILABLE FOR DEBT SERVICE \$ 25,707

BEGINNING FUNDS AVAILABLE FOR O&M \$ 30,971

REVENUES

Net Secondary Assessed Value (as of February 2013) *	5,818,043	
O&M Tax Rate	\$0.00	
Property Tax Collections (NAV x rate / 100)		0
Interest Income		5

EXPENSES

Liability Insurance Premium	(5,000)	
Trustee Fees	(3,200)	
Legal Fees	(300)	
Advertising	(200)	
City of Scottsdale Administration	(4,300)	
		<u>(13,000)</u>

ENDING FUNDS AVAILABLE FOR O&M \$ 17,976

* Source: Maricopa County Assessor's Office

EXHIBIT C

SCOTTSDALE WATERFRONT COMMERCIAL COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA

TAX LEVY

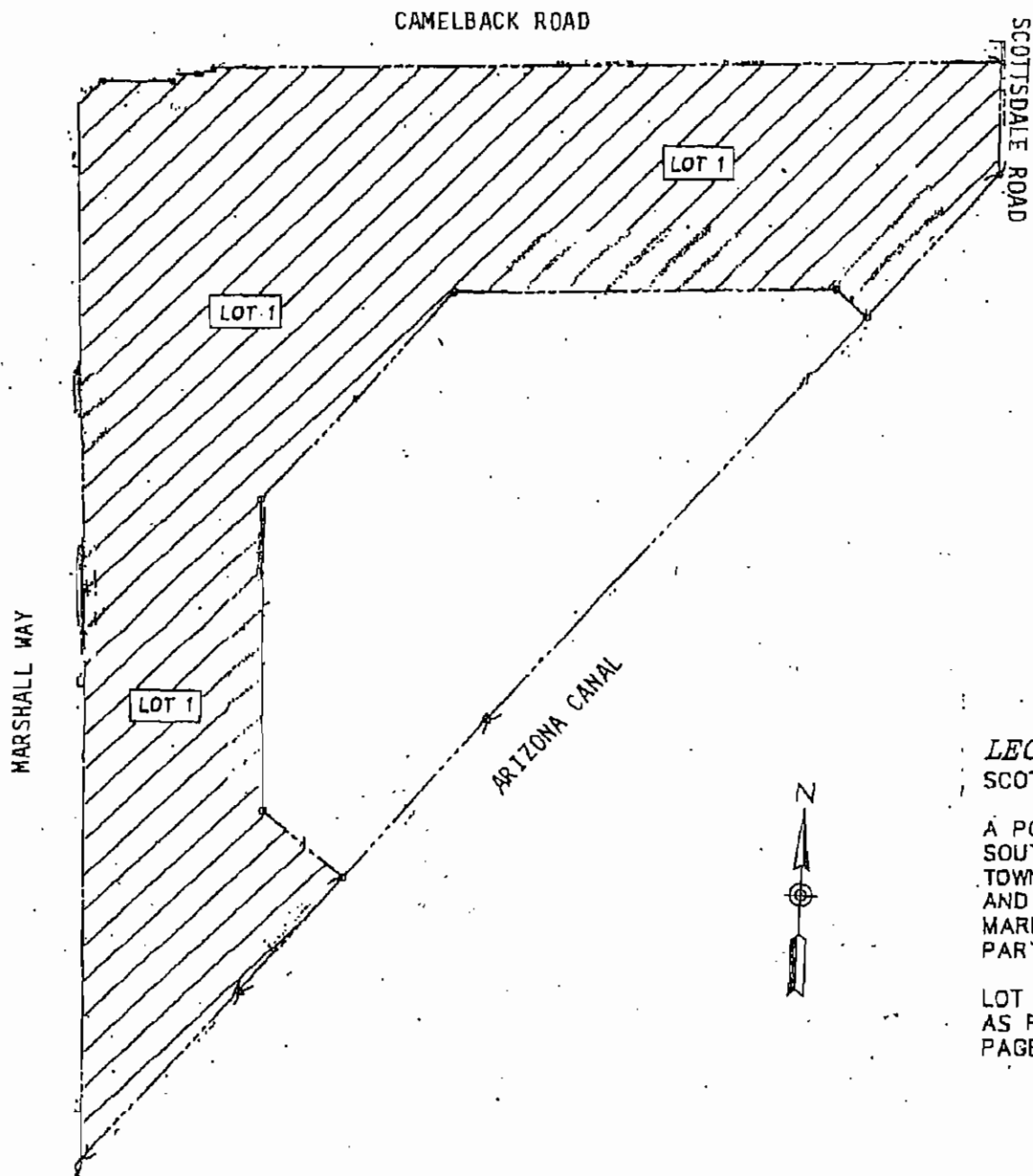
PURSUANT TO RESOLUTION NO. 21 passed on June 4, 2013 by the District Board of Scottsdale Waterfront Commercial Community Facilities District of Scottsdale, Arizona (the "District"), it is hereby ordered levying a secondary *ad valorem* tax levy applicable to all taxable property within the District for Fiscal Year 2013-2014, such tax levy to be apportioned as follows: at a rate (unlimited as to rate or amount) sufficient to produce \$292,938 for debt service on outstanding bonds of the District; and at a rate (not to exceed \$.30) sufficient to produce \$0 for operations and maintenance expenses of the District. A map of the District is attached hereto as Appendix A.

DATED: June 4, 2013

Chairman, District Board
Scottsdale Waterfront Commercial Community
Facilities District of Scottsdale, Arizona

ATTEST:

District Clerk
Scottsdale Waterfront Commercial Community
Facilities District of Scottsdale, Arizona



LEGAL DESCRIPTION
SCOTTSDALE WATERFRONT

A PORTION OF THE NORTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF SECTION 22,
TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA
AND SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 1 OF THE PLAT FOR SCOTTSDALE WATERFRONT
AS RECORDED IN BOOK OF MAPS 702,
PAGE 30, RECORDS OF MARICOPA COUNTY, ARIZONA.

DISTRICT MAP

Appendix A

SCOTTSDALE WATERFRONT COMMUNITY FACILITIES DISTRICT

SCOTTSDALE WATERFRONT COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA

RESOLUTION NO. 22

A. RESOLUTION OF THE BOARD OF DIRECTORS OF THE SCOTTSDALE WATERFRONT COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA ADOPTING ISSUANCE AND POST-ISSUANCE COMPLIANCE PROCEDURES RELATING TO TAX-EXEMPT BONDS, OTHER TAX-EXEMPT FINANCINGS, BUILD AMERICA BONDS (DIRECT PAY), TAX CREDIT BONDS AND TAX CREDIT BONDS (DIRECT PAY) FOR THE SCOTTSDALE WATERFRONT COMMUNITY FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Scottsdale Waterfront Community Facilities District of Scottsdale, Arizona (the "CFD") has issued tax-exempt bonds and may issue additional types of bonds in the future (collectively the "Bonds"); and

WHEREAS, federal tax law encourages the CFD to develop issuance and post-issuance compliance procedures related to the Bonds; and

WHEREAS, the CFD desires to adopt written issuance and post-issuance compliance procedures related to the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SCOTTSDALE WATERFRONT CFD OF SCOTTSDALE, ARIZONA, as follows:

Section 1. That the Board of Directors of the Scottsdale Waterfront CFD of Scottsdale, Arizona adopt the Issuance and Post-Issuance Compliance Procedures Relating to Tax-Exempt Bonds, Other Tax-Exempt Financings, Build America Bonds (Direct Pay), Tax Credit Bonds and Tax Credit Bonds (Direct Pay) for the Scottsdale Waterfront CFD of Scottsdale, Arizona, attached hereto as Exhibit A.

PASSED, ADOPTED AND APPROVED by the Board of Directors of the Scottsdale Waterfront Community Facilities District of Scottsdale, Arizona on June 4, 2013.

ATTEST:

Chairman, District Board
Scottsdale Waterfront Community Facilities District

Carolyn Jagger, District Clerk
Scottsdale Waterfront Community Facilities District

APPROVED AS TO FORM:


Scott Ruby

Exhibit A: Issuance and Post-Issuance Compliance Procedures

**ISSUANCE AND POST-ISSUANCE COMPLIANCE PROCEDURES
RELATING TO TAX-EXEMPT BONDS, OTHER TAX-EXEMPT FINANCINGS,
BUILD AMERICA BONDS (DIRECT PAY), TAX CREDIT BONDS AND TAX CREDIT
BONDS (DIRECT PAY) FOR THE SCOTTSDALE WATERFRONT COMMUNITY
FACILITIES DISTRICT OF SCOTTSDALE, ARIZONA**

Date of Implementation: June 4, 2013

I. INTRODUCTION

Many conditions, restrictions and requirements must be complied with to permit and preserve the tax-exempt, tax credit or direct federal subsidy treatment of bonds and other financings by the Scottsdale Waterfront Community Facilities District of Scottsdale, Arizona (the "CFD"). Prior to issuance, the CFD and its bond counsel will review the facts and the reasonable expectations to determine if the issue will comply with these conditions, restrictions and requirements at the time of issuance. There certain actions the CFD must do after issuance to preserve the favorable tax treatment and certain actions of the CFD after issuance can adversely affect the tax treatment. In addition, the CFD must maintain proper records to demonstrate compliance. Because tax benefits may be critical to the investors' decision to purchase the bonds or other obligations, the CFD covenants to the bond purchasers or the CFD must authorize the CFD's Board of Directors and CFD Treasurer ("CFD Treasurer"), or his or her designee, to comply with all of the conditions, restrictions and requirements throughout the life of the bonds.

To ensure compliance, the CFD must identify a single person with overall compliance responsibility. The CFD Treasurer, or his or her designee, will be the responsible person and is referred to in these procedures as the Bond Compliance Official. Anyone with any questions about the bonds, the proceeds of the bonds, the facilities financed with the bonds or compliance with the conditions, restrictions and requirements should discuss them with the Bond Compliance Official who shall, as necessary, discuss them with bond counsel. The Bond Compliance Official shall meet with bond counsel to discuss these requirements and from time to time any changes in these requirements. In the event the CFD fails to comply with these procedures, the Bond Compliance Official shall meet with bond counsel as soon as practicable

after the discovery of the failure to comply in order to discuss the steps required to correct the noncompliance.

1. INVESTMENT OF PROCEEDS UNTIL EXPENDED.

Detailed records of investments and earnings will be made and kept by the CFD with respect to all bond proceeds.

Generally, proceeds of bonds cannot be invested at a yield higher than the bond yield unless during certain specific temporary periods. Therefore, prior to closing, the Bond Compliance Official will determine with bond counsel which funds do or do not qualify for a temporary period. Qualifying information will be set out in a tax certificate. No proceeds will be invested at a yield higher than the bond yield unless they qualify. If the actual facts regarding the use of proceeds changes from what was reasonably expected at closing, the Bond Compliance Official will discuss those changes with bond counsel to see if the temporary periods are changed.

Bond proceeds include the amount received from the sale of the bonds, amounts held in a payment or reserve fund for the bonds *and investment earnings on those amounts*.

The proceeds will not be invested in any investment where a yield cannot be determined.

Any investment in a guaranteed investment contract or similar investment agreement will only be made in compliance with the bidding requirements as reviewed by bond counsel.

Bond proceeds will be invested so that they can be tracked separately from any other funds of the CFD. The CFD will work with the registrar, trustee or other applicable person or entity to be sure that invested earnings are properly allocated between bond proceeds and other funds.

2. USE OF PROCEEDS.

Detailed records will be made and kept by the CFD with regard to the use of bond proceeds. For each expenditure, the amount, date of and purpose will be recorded. If the project is also funded with non-bond proceeds, the records will reflect an allocation of expenditures between bond proceeds and other funds. No proceeds will be used to reimburse an expenditure

made prior to the issue date of the bonds unless the reimbursement requirement, including the prior declaration of intent to reimburse, has been fully complied with and evidence of such compliance is maintained. The CFD Treasurer, or his or her designee, is authorized to complete the declaration of intent to reimburse.

Under federal tax law, the CFD is expected to exercise diligence to expend the proceeds, to enter into within six months of the issue date a binding contract to expend at least 10% of the proceeds and to have expended most of the proceeds within three years. After the third anniversary of the issue, any remaining proceeds in the construction account must be yield restricted.

The Bond Compliance Official shall periodically review the progress of the projects and the expenditure of proceeds to ensure timely expenditure of proceeds.

Additionally, the CFD will comply with the specific use of proceed rules and expenditure rules for any Build America Bonds, Tax Credit Bonds or Tax Credit Bonds (Direct Pay) described below.

3. USE OF BOND FINANCED FACILITIES.

Detailed records of the use of proceeds will identify those facilities that are financed in whole or in part with bond proceeds and must reflect the allocation of bond proceeds and other funds used. Any sale or lease to, or other agreement for use by, a private party in a trade or business can adversely affect the tax status of the bonds. The CFD will not sell or lease any bond financed property or enter into any agreement with non-governmental entities for use or management of any bond financed property without a thorough review by the Bond Compliance Official and bond counsel. While not a comprehensive list, the Bond Compliance Official will review the following types of transactions with bond counsel prior to entering into any agreement with non-governmental entities or persons: (a) the sale or lease of any bond financed property, (b) any management contracts with a food service provider, (c) any research agreements and (d) public-private partnerships. The Bond Compliance Official shall periodically review the use of all bond financed facilities to ensure compliance with the private use restrictions. In the event the CFD takes action that causes the bonds to meet the private business tests or private loan financing test, the Bond Compliance Official shall meet with bond counsel as soon as practicable after the issue is discovered to discuss the steps required to correct the

noncompliance, including, if necessary, redeeming or defeasing all of the bonds that meet the private business tests or private loan financing test.

4. ARBITRAGE REBATE.

Any time that bond proceeds are permitted to be invested at a yield higher than the bond yield, the amount earned over the bond yield is arbitrage. With certain exceptions, the CFD is obligated to pay over (rebate) to the United States any arbitrage earned. The CFD will keep complete and accurate records of all investments of bond proceeds and all information supporting any applicable exceptions to the rebate requirement and will retain or ensure that the registrar or trustee has retained a professional rebate consultant to review the records and prepare a report so that the CFD or the registrar or trustee can make any necessary rebate payments. Unless exempt, the CFD must, at a minimum, make payments at every fifth anniversary of the issue and upon final payment. The Bond Compliance Official will review any exemption prior to each fifth anniversary and upon final payment to determine if any facts have changed which might eliminate the exemption.

5. RECORD RETENTION.

All records concerning the bond issue, including

- a) the transcript of the original proceedings,
- b) investment of proceeds,
- c) use and allocation of proceeds, including the declaration of intent to reimburse,
- d) non-governmental use of bond financed property,
- (e) payment of principal and interest on the bonds,
- f) the interest rate or rates on the bonds from time to time, if variable,
- g) compliance with reimbursement requirements,
- h) refunding of all or part of the bonds,
- i) payment of arbitrage rebate or information supporting any exemption to rebate, and
- j) evidence of compliance with special requirements for Build America Bonds (Direct Pay), Tax Credit Bonds, or Tax Credit Bonds (Direct Pay).

shall be kept for the life of the bonds plus three years (and in compliance with any State of Arizona records retention policies) and, if the bonds are refunded, for the life of all of the refunding bonds plus three years (and in compliance with any State of Arizona records retention policies).

6. SPECIAL REQUIREMENTS FOR BUILD AMERICA BONDS (DIRECT PAY).

If the CFD issues any Build America Bonds (Direct Pay), in addition to the tax-exempt bond provisions in Section 1-5 above, the CFD must comply with the following additional requirements will be met:

a) Capital Expenditure Requirement. All of the sales proceeds, including investment earnings, must be spent on capital expenditures (and not working capital) except that up to 2% of the proceeds can be spent on costs of issuance and proceeds can fund a reasonably required reserve fund. The Bond Compliance Official shall consult with bond counsel prior to issuance to determine that the 2% costs of issuance limit will not be exceeded, that any reserve fund complies with requirements, and that the balance of the sales proceeds will be spent on capital expenditures. The Bond Compliance Official will review all expenditures to ensure compliance.

b) De Minimus Premium. No Build America Bonds can be reoffered at an issue price which includes a premium which exceeds .25% of the stated redemption price at maturity, multiplied by the number of complete years to the earlier of maturity, mandatory redemption or first optional redemption date, if applicable. Prior to closing, the Bond Compliance Official shall review the pricing information with its bond underwriter to determine that this requirement has been complied with. The bond purchaser or underwriter will certify at the closing what the reoffering prices were reasonably expected to be to establish the amount of premium for each maturity.

c) Irrevocable Election. To qualify an issue as Build America Bonds, the CFD must make an irrevocable election to have Section 54AA (BABs) and Section 54AA(g) (BABs Direct Pay) of the Code apply to the bonds. The Bond Compliance Official shall ensure that the elections have been made and are evidenced in the transcript at the time of closing.

d) Authorize Board of Directors and CFD Treasurer to Act. The Authorizing Resolution must authorize the Board of Directors and the CFD Treasurer or other authorized person to do all things necessary to take any action within its power and authority which would, other than as a result of the application of Section 54AA(g) of the Code, prevent the interest income on the bonds from becoming includable in gross income for federal income tax purposes and to do all things necessary to continue to qualify as BABs – Direct Pay under Sections 54AA and 54AA(g) to receive the direct subsidy payment. The Bond Compliance Official shall ensure that such authorization has been granted and is evidenced in the transcript at the time of closing.

e) Filing for Subsidy. An 8038-B will be prepared by bond counsel, executed by the Bond Compliance Official or other authorized signer, filed promptly after the closing and included in the transcript. For each interest payment, the Bond Compliance Official will prepare, sign and file an 8038-CP to request the payment of the direct pay credit from the United States. With respect to fixed rate bonds, the form must be filed not more than 90 days and not less than 45 days prior to the interest payment date. With respect to variable interest rate bonds, the credit payment will be aggregated on a quarterly basis and the 8038-CP must be filed for reimbursement in arrears not more than 45 days after the last interest payment date within that quarter.

Prior to closing, the CFD will determine to whom the credit payment will be sent and will obtain the necessary information to properly direct the payment.

f) Yield. The Bond Compliance Officer shall review the yield calculation with bond counsel to ensure that the yield is reduced by the credit allowed under Section 54AA(a).

7. SPECIAL REQUIREMENTS FOR TAX CREDIT BONDS.

If the CFD issues any Qualified Forestry Conservation Bonds, New Clean Renewable Energy Bonds or Qualified Energy Conservation Bonds, the following requirements will be met:

a) Use of Proceeds for Tax Credit Bonds. All of the proceeds, **including investment earnings**, must be spent on 1 or more “qualified purposes” (as defined below) except that up to 2% of the proceeds can be spent on costs of issuance and proceeds can fund a reserve fund that meets the requirements below. The Bond Compliance Official shall consult

with bond counsel prior to issuance to determine that the 2% costs of issuance limit will not be exceeded, that any reserve fund complies with requirements, and that the balance of the proceeds will be spent on one or more qualified purposes. The Bond Compliance Official will review all expenditures to ensure compliance.

At the date of issuance, the CFD must reasonably expect to:

(i) spend 100% or more of the proceeds (except for proceeds used to pay up to 2% costs of issuance or fund a reserve fund) for one or more qualified purposes within the 3-year period beginning on the date of issuance, and

(ii) have a binding commitment with a third party to spend at least 10% of such proceeds within the 6-month period beginning on the date of issuance.

If the CFD does not spend 100% of the proceeds (except for proceeds used to pay up to 2% costs of issuance or fund a reserve fund) within the 3-year period from the date of issuance, the CFD shall redeem all of the nonqualified bonds within 90 days after the end of the 3-year period. The CFD may be able to receive an extension prior to the expiration of the 3-year period if the CFD establishes that failure to spend the proceeds is due to a reasonable cause and the CFD will continue to proceed to spend the proceeds with due diligence.

The Bond Compliance Official shall periodically review the progress of the projects and the expenditure of proceeds to ensure timely expenditure of proceeds. If the Bond Compliance Official believes that the CFD will not spend 100% of the proceeds within the 3-year period beginning the date of issuance, the Bond Compliance Official will contact bond counsel as soon as possible.

A “qualified purpose” for a:

(i) Qualified Forestry Conservation Bond is one or more qualified forestry conservation purposes as defined in IRS Section 54B(e);

(ii) New Clean Renewable Energy Bond is one or more qualified renewable energy facilities as defined in IRS Section 54C(a)(1); and

(iii) Qualified Energy Conservation Bonds is one or more qualified conservation purposes as defined in IRS Section 54D(a)(1).

The Bond Compliance Official shall review the qualified purpose of the applicable Tax Credit Bonds to ensure compliance. Additionally, the Bond Compliance Official

shall review the use of proceeds periodically to ensure continued compliance to spend 100% of the proceeds for the applicable qualified purpose.

b) Reserve Fund. The reserve fund shall comply with the following:

(i) such fund is funded at a rate not more rapid than equal annual installments,

(ii) such fund is funded in a manner reasonably expected to result in an amount no greater than an amount necessary to repay the issue, and

(iii) the yield on such fund is not greater than the discount rate determined on the date the bonds are sold or the date the Bond Purchase Agreement is signed and pursuant to the Treasury Rules set forth daily on www.treasurydirect.gov.

The Bond Compliance Official shall review these requirements with bond counsel to ensure compliance and review this periodically to ensure continued compliance.

c) Maximum Term. The bonds cannot exceed the maximum term permitted for Tax Credit Bonds. The maximum term will be determined on the date the bonds are sold or the date the Bond Purchase Agreement is signed and pursuant to the Treasury Rules set forth daily on www.treasurydirect.gov. The Bond Compliance Official shall review this requirement with bond counsel to ensure compliance.

d) Financial Conflicts of Interest. The CFD must certify that all applicable conflicts of interest are satisfied. The Bond Compliance Official shall review this requirement with bond counsel to ensure compliance.

e) Yield. The Bond Compliance Officer shall review the yield calculation with bond counsel to ensure that the yield is reduced by the credit allowed under Section 6431.

f) Volume Cap. The Bond Compliance Officer shall ensure that the CFD utilizes its allocated volume cap.

g) Davis Bacon. If the CFD issues any New Clean Renewable Energy Bonds or Qualified Energy Conservation Bonds, the CFD must comply with the Davis Bacon requirements. The Bond Compliance Official shall ensure that the CFD complies with this requirement and files required quarterly filings.

8. SPECIAL REQUIREMENTS FOR TAX CREDIT BONDS (DIRECT PAY).

If the CFD issues any New Clean Renewable Energy Bonds (Direct Pay) or Qualified Energy Conservation Bonds (Direct Pay), the following requirements will be met:

a) Qualified Tax Credit Bond. The CFD and Bond Compliance Official shall ensure that the requirements of the applicable Tax Credit Bond regarding Use of Proceeds, Reserve Fund, Maximum Term, and Financial Conflicts of Interest as outlined in Section 7 above are met. However, Tax Credit Bonds (Direct Pay) do not have to be issued prior to January 1, 2011, but the following additional requirements must be met:

b) Irrevocable Election. To qualify as one of the applicable Tax Credit Bonds (Direct Pay), the CFD must make an irrevocable election to have the applicable Tax Credit Bond (Direct Pay) section apply and to have Sections 54D(a) and 6431(f)(3) apply to the bonds. The Bond Compliance Official shall ensure that the elections have been made and are evidenced in the transcript at the time of closing.

c) Authorize Board of Directors and CFD Treasurer to Act. The Board of Directors and CFD Treasurer or other authorized person to do all things necessary to take any action within its power and authority to maintain the status of the bonds as Tax Credit Bonds (Direct Pay) under the applicable Tax Credit Bond (Direct Pay) section and Section 6431(f) to receive the refundable credit payment to be paid by the United States as a credit allowed under Section 6431(f) of the Code. The Bond Compliance Official shall ensure that such authorization has been granted and is evidenced in the transcript at the time of closing.

d) Filing for Subsidy. An 8038-TC will be prepared by bond counsel, executed by the Bond Compliance Official or other authorized signer, filed promptly after closing and included in the transcript. For each interest payment, the Bond Compliance Official will prepare, sign and file an 8038-CP to request the payment of the refundable credit payment from the United States. With respect to fixed rate bonds, the form must be filed no more than 90 days and not less than 45 days prior to the interest payment date. With respect to variable interest rate bonds, the credit payment will be aggregated on a quarterly basis and the 8038-CP must be filed for reimbursement in arrears not more than 45 days after the last interest payment date within that quarter.

Additionally, the Bond Compliance Official will discuss the requirements with bond counsel to appropriately reduce the amount of the refundable credit payment and shall

ensure that the amount of the refundable credit payment requested is appropriately reduced for New Clean Renewable Energy Bonds (Direct Pay) and Qualified Energy Conservation Bonds (Direct Pay) on the 8038-TC and subsequent 8038-CPs.

e) De Minimum Premium. No Tax Credit Bond (Direct Pay) can be reoffered at an issue price which includes a premium which exceeds .25% of the stated redemption price at maturity, multiplied by the number of complete years to the earlier of maturity, mandatory redemption of first optional redemption date, if applicable. Prior to closing, the Bond Compliance Official shall review the pricing information with its bond underwriter and bond counsel to determine that this requirement has been complied with. The bond purchaser or underwriter will certify at the closing what the reoffering prices were reasonably expected to be to establish the amount of premium for each maturity.

f) Yield. The Bond Compliance Officer shall review the yield calculation with bond counsel to ensure that the yield is reduced by the credit allowed under Section 6431(f).

g) Davis Bacon. If the CFD issues any New Clean Renewable Energy Bonds (Direct Pay) or Qualified Energy Conservation Bonds (Direct Pay), the CFD must comply with the Davis Bacon requirements. The Bond Compliance Official shall ensure that the CFD complies with this requirement and files required quarterly filings.